MANCHESTER CITY COUNCIL

# Planning

## Growth & Development

## Delegated officer report for planning application

| | |
|---|---|
| **Application no.** | 144723/LP/2025 |
| **Date registered valid:** | 17 December 2025 |
| **Proposal:** | Change of use from dwellinghouse (Use Class C3a) to residential care home (Use Class C2). |
| **Address:** | 2 Pennine Close, Manchester, M9 6HR |
| **Ward(s):** | Charlestown Ward |
| **Applicant:** | Kyle Warner |
| **Agent (if any):** | Miss Nixie Edwards HAD & Co |
| **Case officer:** | Robert Tyrer<br>Tel: 0161 234 4068<br>Email: robert.tyrer@manchester.gov.uk |
| **Recommendation:** | Refuse |

**Date of recommendation:** 6 February 2026

**Application details**

**Type of application:** Certificate Lawful Development Proposed

**Development type:** Certificates of lawfulness

**Date of site visit:** Not Required

**Standard consultations:**
No consultations have been printed and sent.

**Neighbour notifications**
No neighbour notifications have been printed and sent.

**Site notice**
No site notice has been produced

**Press advert**
No press advert had been published

**Departure from Development Plan:** No

**Environmental Statement:** Not required

**Description of site/building**

The application site relates to a two storey semi-detached dwellinghouse in a predominantly residential area. The property has both front and rear gardens with the front garden providing a driveway.

**Listed building:** Not applicable

**Conservation area:** Not applicable

**Tree Preservation Order:** Not applicable

**Description of development**

The applicant is seeking a certificate of lawful development for a change of use from dwellinghouse (Use Class C3a) to residential care home (Use Class C2).

**Consultations & Notification Responses**

**None Required** - There is no statutory requirement to consult third parties, including neighbours. Any views expressed by third parties regarding the planning merits of the case, or whether the applicant has private rights to carry out the proposed operation, use, or activity, are irrelevant when determining the application.

**Legislative Issues**

Sections 191 and 192 of the Town and Country Planning Act 1990 provide for anyone (not just a person with a legal interest in the land) to apply to the local planning authority (LPA) for a lawful development certificate (LDC). A certificate is a statutory document certifying:

(1) in the case of an application under section 191, the lawfulness, for planning purposes, of existing operations on, or use of land, or some activity being carried out in breach of a planning condition; or

(2) in the case of an application under section 192, the lawfulness of proposed operations on, or use of land.

The onus of proof in regard to (1) is firmly on the applicant and the issue of a certificate will depend on the on factual evidence provided about the history and planning status of the building or other land and the interpretation of any relevant planning law or judicial authority. The relevant test of the evidence in this matter is “the balance of probability” and the applicants own evidence does not need to be corroborated by independent evidence. If the LPA have no evidence to contradict the applicant’s version of events or make them less then probable, there is no good reason to refuse the issue of a certificate.

In regard to (2), this provides that, if the LPA are supplied with information satisfying them that the use or operations described in the application would be lawful, if instituted or begun at the time of the application, they shall issue a certificate to that effect; and, in any other case, they shall refuse the application.

In short, the purpose section 192 is to enable any person who wishes to find out whether any proposed use or operations would be lawful to apply to the LPA for that purpose.

The application needs to describe the proposal with sufficient clarity and precision to enable the LPA to understand (from a written description and plans) exactly what is involved in the proposal; and to submit whatever supporting information or legal submission that are to be relied upon in order to satisfy the LPA that a certificate should be granted for the proposal.

In making their decision on an application under section 192, the LPA ask themselves the hypothetical question - "If this proposed change of use had already occurred, or if this proposed operation had commenced, on the application date, would it have been lawful for planning purposes?" In doing so, the LPA will not only consider whether the proposal would involve "development" requiring an application for planning permission, but whether it would involve a breach of any existing condition or limitation imposed on a grant of planning permission which has been acted upon, and which therefore constrains what can be done on the land. The LPA will not make a proposal fit a scenario; the only question is whether the proposal made by the applicant is lawful at the time of submission.

**Planning History**

There have been no previous planning applications at this address.

**The Application**

This application is pursued under subsection (1) of section 192, which provides for an application to determine whether any proposed use of buildings or other land (s192(1)(a) or operations proposed to be carried out in, on, over or under land, (s192(1)(b) would be lawful for planning purposes.

The applicant states that the existing use falls under: “*C3 – Dwellinghouses” and that the proposed use is “C2 – Residential institutions”.*

In response to the question Why do you consider that a Lawful Development Certificate should be granted for this proposal? The applicant has responded as follows:

*"It can be considered that this proposed use would work in the same way as a typical family unit acting as a single household. Nothing that would be considered a "planning material" change would be occurring as per Section 55(1) of the Town and Country Planning Act 1990 (as amended), therefore a full change of use application for the proposed change would be unnecessary and a Lawful Development Certificate can be issued. As the property will be used as close to a traditional class use C3 family home as possible, but the residents will not come under the definition of a "single household" as stipulated in C3(a), the Lawful Development Certificate is necessary to confirm the property has the use class of C2 due to the element of care that will be provided for the resident child or children by employed carers working on a shift-rota basis."*

Section 192(2), makes it clear that for an application submitted under section 192, *"the local planning authority are provided with information satisfying them that the use or operations described in the application would be lawful if instituted or begun at the time of the application, they shall issue a certificate to that effect; and in any other case they shall refuse the application."*

**The Assessment**

The Town and Country Planning (Use Classes) Order 1987 (as amended) puts uses of land and buildings into various categories. As noted, the existing use as stated on the application form falls within Class C3 (Dwellinghouses) which is split into three parts as follows:

- C3(a) a single person or by people to be regarded as forming a single household;
- C3(b) not more than six residents living together as a single household where care is provided for residents: or
- C3(c) not more than six residents living together as a single household where no care is provided to residents (other than a use within Class C4).

Use Class C2 (Residential Institutions) is defined as follows:

Use for the provision of residential accommodation and care to people in need of care (other than a use within class C3 (dwelling houses)).

- Use as a hospital or nursing home.
- Use as a residential school, college or training centre.

The applicant seeks a lawful development certificate for a proposed change of use from dwellinghouse (Use Class C3a) to residential care home (Use Class C2).

Under normal circumstances, there would be no permitted change to Use Class C2. However, as established in the North Devon District Council v First Secretary of State and Southern Childcare [2003] case, a change from C3(a) to C2 is not always considered material; it is a matter of fact and degree, depending on the specific circumstances of the case.

Therefore, an assessment based on 'fact and degree' is necessary to determine whether there is a material change of use.

The application property is a two-storey semi-detached dwellinghouse situated within a predominantly residential street.

The submitted drawings show that the property comprises of a living room, dining room and a kitchen at ground-floor level. The first floor contains three bedrooms and a bathroom. Externally,

the property benefits from both front and rear gardens. The front garden provides a driveway which gives access to a car port on the side of the property.

In terms of the proposed use, two children with mild to moderate learning difficulties aged between 5 and 17 years would live at the property and will primarily serve medium to long term placements. Care would be provided by three full-time carers on site working on a shift-rota basis. Two of the carers would provide overnight support.

Staff would operate on a 24-hour rotational basis, which would include one change over a day during off peaks hours.

The proposal would provide sleeping arrangements for both children and carers, using all of the existing three bedrooms. The living room would contain a sofa bed so that it can be used for sleeping and the smallest bedroom would also be a carers bedroom. The dining room would be used as additional living space and a meeting space for any planned visitors.

The onus in this respect is firmly on the appellant as details of its actual use or last known use are what is needed to compare with what is proposed.

The applicant states that the property has to be run as closely as possible to a typical family household for OFSTED requirements. The supporting statement clarifies that the residents of the property would interact with the dwelling similar to how any other family would inhabit the house. As such they contend that there would be little difference in the comings and goings at the property when compared with a family occupying the property.

Activities would include carers dropping off and picking up the children for school each day, activity and leisure outings for the children, shopping and changeovers between careers. Which they say is comparable to activities to parents or guardians entering and leaving the property for work purposes or other routine responsibilities.

However, the application does not provide a great deal of detail on comings and goings to the property and how this compares with the existing use as a dwellinghouse. There is little detail regarding visitors to the property and how this will be managed.

In terms of staff whilst it is clear three members of staff would be present at the property working on a rota basis. However, it is difficult to assess the impact as change overs would happen during off peak times but again no details have been provided about the time these would take place other than at times to avoid busy traffic times and disruption to neighbours. The property is located within a cul-de-sac which may not have frequent comings and goings.

There is also reference to a shared car owned by the home but no details about this have been provided as to how this will be used other than collecting staff who cannot walk or take public transport to the property.

**Conclusion**

The current use of the property is considered to fall within Class C3(a), as a private dwellinghouse and contains three bedrooms and is capable of accommodating a family, however, the application does not provide sufficient and precise evidence to provide a comparison between the existing and proposed use as a children care home (Class C2) and would require planning permission.

The certificate is recommended for refusal.

**Other Legislative Requirements**
**Equality Act 2010**
Section 149 (Public Sector Equality Duty) of the Equality Act 2010 requires due regard to the need to: Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act and; Advance equality of opportunity between persons who share a protected characteristic and persons who do not share it. The Equality Duty does not impose a legal requirement to conduct an Equality Impact Assessment. Compliance with the Equality Duty involves consciously thinking about the aims of the Equality Duty as part of the process of decision-making.

**Human Rights Act 1998 considerations**
This application needs to be considered against the provisions of the Human Rights Act 1998. Under Article 6, the applicants (and those third parties, including local residents, who have made representations) have a right to a fair hearing and to this end the local planning authority must give full consideration to their comments.

Protocol 1 Article 1, and Article 8 where appropriate, confer(s) a right of respect for a person's home, other land and business assets. In taking account of all material considerations, including Council policy as set out in the Core Strategy and saved polices of the Unitary Development Plan, the Director of Planning, Building Control & Licensing has concluded that some rights conferred by these articles on the applicant(s)/objector(s)/resident(s) and other occupiers and owners of nearby land that might be affected may be interfered with but that that interference is in accordance with the law and justified by being in the public interest and on the basis of the planning merits of the development proposal. She believes that any restriction on these rights posed by the recommendation given is proportionate to the wider benefits of and that such a decision falls within the margin of discretion afforded to the Council under the Town and Country Planning Acts.

**Recommendation:** Refuse

**Condition(s) to be attached to decision for approval OR Reasons for recommendation to refuse**

The applicant has failed to demonstrate, with sufficient and precise evidence, that the change of use from dwellinghouse (Use Class C3a) to residential care home (Use Class C2), does not amount to a material change of use requiring planning permission.

**Appendix 1 – List of consultees & neighbours notified**

**Appendix 2 – Planning constraints**

Article 4 Direction - Removal Of PD Rights Change Of Use From Class C3 To Class C4
Coal Authority - Development High Risk - Name: DEVELOPMENT_HIGH_RISK_AREA
Coal Authority - Development Low Risk - Name: DEVELOPMENT_LOW_RISK_AREA
Coal Authority - Surface Coal Resources - Name: Coal bearing strata at surface
Susceptible to Surf Water Flood (Less) -
Susceptible to Surf Water Flood (Less) -
Susceptible to Surf Water Flood (Middle) -
Susceptible to Surf Water Flood (Middle) -
Susceptible to Surf Water Flood (Middle) -
Susceptible to Surf Water Flood (More) -
Susceptible to Surf Water Flood (More) -
Susceptible to Surf Water Flood (More) -
Area Team Boundary - Name: NORTH AREA